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Specific Claims

Specific claims relate to the history of Canada's relations with Aboriginal peoples, also known as Indians or First Nations. For the most part, specific claims deal with First Nation land or assets.

When Europeans settled in this land now known as Canada, they met many First Nations already living here. The desire to live together peacefully was expressed in the Two-Row Wampum sealed between the Iroquois Confederacy and Dutch settlers in what is now New York State. The belt of tiny shells symbolizes two ships on parallel but separate courses.

Several decades later in the early 1700s, the British had established a sizable presence in this land. The 1763 Royal Proclamation of King George the Third of Britain reiterated the desire for peaceful co-habitation. Between 1725 and the Confederation of Canada in 1867, the colonial administration made several treaties with First Nations to formalize peaceful relations.

Then, between 1871 and 1923, as more European and Asian settlers arrived and moved into western Canada, the Canadian government made land treaties. These treaties exchanged Aboriginal title to the land for treaty rights

and Indian reserves to secure land for settlement. In 1876, the Canadian government passed the *Indian Act* to formalize its responsibility for Indians and lands reserved for Indians through

"And whereas it is just and reasonable, and essential to Our Interest, and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved for them, or any of them, as their Hunting Grounds."

Royal Proclamation
of 1763

treaty-making and other means.

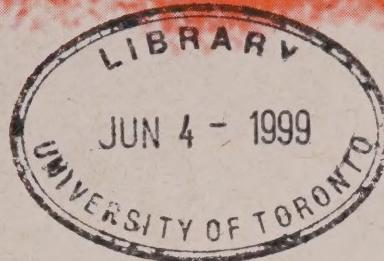
Legal obligations arose through the treaties, the *Indian Act*, and other agreements between Canada and First Nations. To some First

Nations, Canada has not always honoured its legal obligations, for instance, to provide enough reserve land or to protect the loss of reserve lands without their lawful consent. Other grievances arise over the government's administration of Indian money or other assets such as timber or mineral rights. Yet another kind of related claim arises when Treaty First Nations do not receive the full amount of land promised under treaty. These are called Treaty Land Entitlement (TLE) claims.

While some First Nations' grievances relate to events of 100 years ago or more, others are more recent. Many relate to past actions, in part, because between 1927 and 1951, the *Indian Act* made it an offence for a First Nation to hire a lawyer to bring a claim against Canada without government permission.

Canada formally sought to address these kinds of First Nations' grievances in 1973 when it announced its Specific Claims policy. The policy was clarified in 1982 and 1991 and is again under review.

Since 1973, Canada has settled 207 specific claims. At present, some 120 specific claims are in negotiation. Canada is committed to resolving outstanding First



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Government policy recognizes that a specific claim exists when the First Nation's grievance establishes that Canada had a lawful obligation through:

- the non-fulfillment of a treaty or another agreement between Indians and the Crown
- the breach of an *Indian Act* or other legislative responsibility
- the breach of an obligation arising out of government administration of Indian funds or assets
- an illegal surrender of Indian land by government

Nations grievances to the benefit of all Canadians. Through the settlement of specific claims, Canada and First Nations resolve grievances and reconcile their relationship. The land and cash settlements also provide the base for First Nations to launch economic development initiatives that strengthen their economies and their communities.

Canada's policy of addressing First Nations' specific claims grievances is reflected in *Gathering*

Strength — Canada's Aboriginal Action Plan. Gathering Strength renews the original partnership between Aboriginal and non-Aboriginal Canadians. The deep historical roots of this partnership illustrate the nature of the special relationship between First Nations and Canada, and highlight its constitutional and legal dimensions.



DEFINITIONS

Aboriginal title: A legal term that recognizes Aboriginal interest in the land. It is based on their long-standing use and occupancy of the land as descendants of the original habitants of Canada.

First Nation: A term that came into common usage in the 1970s to replace the word "Indian," which many people found offensive. Although the term First Nation is widely used, no legal definition of it exists. Among its uses, the term "First Nations peoples" refers to the Indian people in Canada, both Status and Non-Status. Many Indian people have also adopted the term "First Nation" to replace the word "band" in the name of their community.

Indian: A term that describes all the Aboriginal people in Canada who are not Inuit or Métis. Indian peoples are one of three groups of people recognized as Aboriginal in the *Constitution Act, 1982*. The act specifies that Aboriginal people in Canada consist of Indians, Inuit and Métis people. In addition, there are three legal definitions that apply to Indians in Canada: Status Indians, Non-Status Indians and Treaty Indians.

Indian Act: This is the Canadian federal legislation, first passed in 1876, that sets out certain federal government obligations, and regulates the management of Indian reserve lands. The act has been

amended several times, most recently in 1985. Among its many provisions, the act requires the Minister of Indian Affairs and Northern Development to manage certain moneys belonging to First Nations and Indian lands, and to approve or disapprove First Nations by-laws.

Publications and Public Enquiries

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